

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Joseph A. Kinsella, as Administrator and )  
personal representative of the Estate of )  
Katherine Kinsella, and Joseph A. Kinsella, )  
individually and on behalf of all distributees )  
of Katherine Kinsella, deceased, )

Plaintiffs, )

V. )

Wyman Charter Corp., Michael P. Wyman, )  
Joseph Jay Shore, Cord Mitchell Shore, )  
Caralyn Shore, Toad Hall Corp., Ian )  
McColgin, the Motor Vessel "Sea Genie II," )  
her engines, tackle and appurtenances, )  
in rem, the Sailing Vessel "Granuaile," )  
her engines, tackle and appurtenances, )  
in rem, )

Defendants. )

Civil Action No. 04-11614-NMG

**ANSWER OF DEFENDANT WYMAN CHARTER CORP.  
TO CROSSCLAIMS OF SHORE DEFENDANTS**

13. Crossclaim defendant Wyman Charter Corp. ("Wyman Charter") denies the allegations contained in Crossclaimants, Shore Defendants' ("Shore Defendants"), paragraph 13.
14. Wyman Charter denies the allegations contained in Shore Defendants' paragraph 14.
15. Wyman Charter denies the allegations contained in Shore Defendants' paragraph 15.
16. Wyman Charter denies the allegations contained in Shore Defendants' paragraph 16.
17. Wyman Charter denies the allegations contained in Shore Defendants' paragraph 17.
18. Wyman Charter denies the allegations contained in Shore Defendants' paragraph 18.

WHEREFORE, crossclaim defendant Wyman Charter Corp. demands that the Shore Defendants' crossclaims be dismissed in their entirety, and that Wyman Charter be awarded reasonable attorneys' fees and expenses, interest and costs for its defense of these crossclaims.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

And answering further and as a first separate and affirmative defense, Wyman Charter incorporates by reference all defenses raised in its Answer to the Plaintiffs' Complaint.

#### **SECOND AFFIRMATIVE DEFENSE**

And answering further and as a second separate and affirmative defense, Shore Defendants by virtue of their unclean hands are estopped, equitably estopped, and or have waived any claims against Wyman Charter and therefore can recover nothing from it.

#### **THIRD AFFIRMATIVE DEFENSE**

And answering further and as a third separate and affirmative defense, Wyman Charter states that Shore Defendants failed to perform as promised breaching their contract with it, and therefore can recover nothing from it.

#### **FOURTH AFFIRMATIVE DEFENSE**

And answering further and as a fourth separate and affirmative defense, Wyman Charter states that if the plaintiffs were injured as alleged, which is denied, said injuries were caused in whole by the negligence of the Shore Defendants.

#### **FIFTH AFFIRMATIVE DEFENSE**

And answering further and as a fifth separate and affirmative defense, Wyman Charter states that Shore Defendants, by their willful misconduct, have waived any claim for damages against Wyman Charter.

#### **SIXTH AFFIRMATIVE DEFENSE**

And answering further and as a sixth separate and affirmative defense, Wyman Charter states that Shore Defendants, by their fraudulent actions, have waived any claim for damages against Wyman Charter.

SEVENTH AFFIRMATIVE DEFENSE

And answering further and as a seventh separate and affirmative defense, Wyman Charter states that Shore Defendants, by their illegal actions, have waived any claim for damages against Wyman Charter.

EIGHTH AFFIRMATIVE DEFENSE

And answering further and as a eighth separate and affirmative defense, Wyman Charter states that Shore Defendants Crossclaims fail to set forth a cause of action upon which relief can be granted.

**DEFENDANT WYMAN CHARTER CORP. DEMANDS TRIAL BY JURY AS TO  
ITS ANSWER TO CROSSCLAIMS OF SHORE DEFENDANTS.**

Wyman Charter Corp.  
By its attorneys,

Dated: September 22, 2004

  
Bertram E. Snyder, BBO # 471320  
Patrick O. McAleer, BBO # 642627  
LOONEY & GROSSMAN, LLP  
101 Arch Street  
Boston, MA 02110  
(617) 951-2800

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>nd</sup> day of September 2004, I served the foregoing, by mailing a copy thereof, postage prepaid, to the following counsel of record:

Andrew V. Buchsbaum, Esq.  
Friedman & James LLP  
132 Nassau Street  
New York, NY 10038

Sarah B. Herlihy, Esq.  
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, PC  
One Financial Center  
Boston, MA 02111

Paul G. Boylan, Esq.  
Kevin G. Kenneally, Esq.  
Donovan & Hatem, LLP  
World Trade Center  
Two Seaport Lane, 8th Floor  
Boston, MA 02210

Thomas E. Clinton, Esq.  
Clinton & Muzyka, P.C.  
One Washinton Mall  
Suite 1400  
Boston, MA 02108

  
Patrick O. McAleer